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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 MARIO A. VALENZUELA,

12 Plaintiff,

13 v.

14 SANTIESTEBAN, *et al.*,

15 Defendants.
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Case No. 1:20-cv-01093 JLT BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS

(Doc. 79)

17 Mario A. Valenzuela is a state prisoner proceeding *pro se* and *in forma pauperis* in this
18 civil rights action pursuant to 42 U.S.C. § 1983. Previously, the Court found Plaintiff could
19 proceed on his claims against Defendants Santiesteban, Rodriguez, and Alejo for excessive force
20 in violation of the Eighth Amendment and against Defendant Perez for failure to protect in
21 violation of the Eighth Amendment, all arising from the incident on June 22, 2019. (Doc. 13.)

22 The assigned magistrate judge granted Plaintiff's unopposed motion for leave to file a first
23 amended complaint. (Docs. 77, 78.) Thereafter, the magistrate judge screened the amended
24 complaint and found Plaintiff stated cognizable claims for: (1) excessive force in violation of the
25 Eighth Amendment against Defendants Santiesteban, Rodriguez, and Gamboa; (2) for failure to
26 protect against Perez. (Doc. 79 at 4-6.) However, the magistrate judge found Plaintiff failed to
27 state a cognizable claim for deliberate indifference. (*Id.* at 5-6.) The magistrate judge also noted
28 that Plaintiff did not name Defendant Alejo as a party or include any allegations against Alejo in

the amended complaint. (*Id.* at 4.) Therefore, the magistrate judge recommended the action proceed only on the cognizable claims and the Court dismiss Alejo as a defendant. (*Id.* at 7.)

The Court served the Findings and Recommendations on the parties and notified Plaintiff that any objections were due within 14 days. (Doc. 79 at 7.) The Court advised him that “failure to file objections within the specified time may result in the waiver of the ‘right to challenge the magistrate’s factual findings’ on appeal.” (*Id.* at 7-8, quoting *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections, and the time to do so has passed.

According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having carefully reviewed the entire matter, the Court finds the Findings and Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS**:

1. The findings and recommendations issued on May 27, 2025 (Doc. 79), are **ADOPTED** in full.
2. This action **SHALL** proceed on Plaintiff’s amended complaint (Doc. 78) against:
 - a. Defendants Santiesteban, Rodriguez, and Gamboa for excessive force in violation of the Eighth Amendment for the incident on June 22, 2019; and
 - b. Defendant Perez for failure to protect against the alleged excessive force in the incident on June 22, 2019, in violation of the Eighth Amendment.
3. All other claims and defendants, including Defendant J. Alejo, are **DISMISSED** from this action for failure to state claims upon which relief may be granted.
4. The Clerk of Court **SHALL** update the docket and terminate J. Alejo as a defendant.
5. This action is referred to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: **June 24, 2025**


UNITED STATES DISTRICT JUDGE